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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/864,415

05/23/2001

R. Michael Daley

3854

30621 7590 05/11/2007  
JENSEN + PUNTIGAM, P.S.  
SUITE 1020  
2033 6TH AVE  
SEATTLE, WA 98121

EXAMINER

HAMILTON, LALITA M

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

05/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/864,415

Applicant(s)

DALEY ET AL.

Examiner

Lalita M. Hamilton

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-10 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-10, 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Request for Continued Examination (RCE)

The RCE filed on April 2, 2007 has been processed. A non-final action follows.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8-10, and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Breuninger (2002/0062271).

Breuninger discloses a system for managing portfolio accounts comprising managing small investment accounts involving a financial service provider, a third party financial intermediary and client investors associated with the financial intermediary, using a global computer network, wherein the system is hosted by the financial service provider only on behalf of one or more financial intermediaries, each having individual network sites linked to the host financial service provider, wherein each financial intermediary serviced by said financial service provider has a separate individual network site originated and maintained by the financial service provider, each of said separate individual network sites being customized to resemble the financial intermediary's own network site, which is separate from the network site maintained by

Art Unit: 3691

the financial service provider, a first portion, available on an individual network site of a financial intermediary~ at a facility of the financial intermediary, in the company of an investment professional associated with the financial intermediary, from the first portion provided by the financial service provider on the global computer network, which includes a series of questions to be answered by a client investor, directed toward determining a risk profile of the client investor, permitting a corresponding investment recommendation to be made by the system from a plurality of possible investments, a second portion, available on said individual network site of the financial intermediary, at the facility of the financial intermediary, in the company of an investment professional associated with the financial intermediary, from the second portion provided by the financial service provider on the global computer network, for providing selected information concerning said investment recommendation, and a third portion, available on said individual network site of the financial intermediary, at the facility of the financial intermediary, in the company of an investment professional associated with the financial intermediary, from the third portion provided by the financial service provider on the global computer network, for completion of an investment application by the client investor, the investment application being automatically provided by the financial service provider, and for subsequent transmittal thereof to the financial service provider, which opens and maintains an investment account for the client investor on behalf of the financial intermediary and provides both the client investor and the financial intermediary confirmation information concerning the new application (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the financial intermediary has a plurality of client investors

Art Unit: 3691

served by the system (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the possible investments are proprietary products of the financial service provider (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the possible investments include non-proprietary products relative to the financial service provider (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); another portion, available on said individual network site of the financial intermediary from the financial service provider on the global computer network, which provides educational information and selected disclosure information concerning investments and information concerning particular investment products available from the financial service provider (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the individual client investor has the ability to change the risk profile and/or the investment recommendation to a selected extent (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); one or more of said system portions, when printed from the financial intermediary's individual network site, have a space for a signature by the client investor (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the financial service provider maintains complete records concerning each investment made for each said client investors and provides periodic reports to each client investor concerning their investments (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the financial service provider, following receipt of a signed copy of the new application with necessary funds, opens an account for the client investor without significant further entry of any information (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the first portion includes a series of multiple choice questions, the result of which is tabulated by the system into a numerical value representing the risk profile of the client investor (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); the second portion includes

information concerning the risk profile of a typical investor in the recommended investment, and other selected characteristics of the recommended investment (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28); and the recommended investment is selected from a plurality of mutual fund investments (p.1, 7-16; p.2, 21-24; and p.2, 27 to p.3, 28).

*Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the Examiner.*

### **Response to Arguments**

Applicant's arguments with respect to claims 1-5, 8-10, and 13-16 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kalinowski Alexander can be reached on (571) 272-6771. The fax phone

Art Unit: 3691

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**LALITA M. HAMILTON**  
**PRIMARY EXAMINER**